

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA

Case No. 3:08-cr-175

Plaintiff,

-v-

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

JEREMY E. LEWIS,

Defendant.

ENTRY AND ORDER OVERRULING LEWIS'S OBJECTIONS (Doc. #200) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS REGARDING LEWIS'S LATEST MOTION FOR RELIEF FROM JUDGMENT (Doc. #198); ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS REGARDING LEWIS'S LATEST MOTION FOR RELIEF FROM JUDGMENT IN ITS ENTIRETY; DENYING LEWIS'S LATEST MOTION FOR RELIEF FROM JUDGMENT (Doc. #197) AND, BECAUSE REASONABLE JURISTS WOULD NOT DISAGREE WITH THIS CONCLUSION, DENYING LEWIS A CERTIFICATE OF APPEALABILITY ON THIS MOTION AND CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS

This case is before the Court on Defendant Jeremy E. Lewis's ("Lewis's") latest Motion for Relief from Judgment. (Doc. #197.) On July 24, 2012, and September 24, 2013, this Court denied Lewis's prior Motions for Relief from Judgment.

Lewis has now filed another Motion for Relief from Judgment pursuant to Rule 60(d) which the Court liberally construes as a Rule 60(b) Motion. On October 7, 2013, Magistrate Merz issued a Report and Recommendations recommending that Lewis's latest Motion for Relief from Judgment be considered a Rule 60(b) motion instead of a Rule 60(d) motion, that this motion be denied, that any request for a certificate of appealability be denied and that the

Court certify to the Sixth Circuit that any appeal would be objectively frivolous. (Doc. #198.)

The time has run and Lewis has not objected to this latest Report and Recommendations. Lewis has, however, filed what he has captioned as “Additional Argument and Memorandum of Law In Support of Mr. Lewis’s Rule 60(b) Motion To Vacate. (Doc. #200.) Even though this was not timely filed as an Objection to the pending Report and Recommendation, it will liberally considered as such. Finally, the time has run and the United States has not responded. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Lewis’s Objection to the Magistrate Judge’s Report and Recommendations regarding Lewis’s latest Motion for Relief from Judgment are not well-taken, and they are hereby **OVERRULED**.

The Magistrate Judge’s Report and Recommendations regarding Lewis’s latest Motion for Relief from Judgment is adopted in its entirety. Lewis’s Motion for Relief from Judgment under Rule 60(d) (doc. #197) is denied. Further, Lewis is denied any requested Certificate of Appealability of the denial of this Motion for Relief from Judgment and any appeal thereof would be objectively frivolous.

DONE and ORDERED in Dayton, Ohio, this Thirty-First Day of October, 2013.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

Jeremy E. Lewis at his last known address of record